

**REMARKS**

Applicant submits this Reply in response to the Final Office Action mailed December 2, 2009. Claims 1-9, 11, and 14 are pending in this application, of which claim 1 is independent.

In the Final Office Action, the Examiner rejected claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by GB 2,033,881 ("Harris"); rejected claims 2-5, 11, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Harris in view of U.S. Pat. No. 6,817,474 ("Ikeda"); rejected claims 6 and 7 under § 103(a) as being unpatentable over Harris in view of Ikeda and further in view of U.S. Pat. No. 6,540,088 ("Oder"); and rejected claim 9 under § 103(a) as being unpatentable over Harris in view of U.S. Pat. No. 4,631,124 ("Paulson").

Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

**Rejections Under 35 U.S.C. § 102**

Applicant respectfully traverses the rejection of claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by Harris. In order to properly establish that Harris anticipates Applicant's claimed invention under 35 U.S.C. § 102, every element of the claims in issue must be found, either expressly or described under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Harris fails to disclose every element of Applicant's claims. Amended independent claim 1 recites, in part, "after the removing of a portion of the loose particles [from a batch], detecting in the batch the defective pellets and additional loose contaminants . . . and; after the detecting the defective pellets and the additional loose contaminants, removing the defective pellets and the additional loose contaminants from the batch." Harris nowhere appears to disclose such features.

Harris discloses only a vertically-positioned chute for use in sorting "a quantity of agricultural products such as peas, peanuts, or beans." Harris at page 1, lines 105-06. In the sorting process described in the reference, "peas" are dropped down a chute with apertures in the walls thereof. Air then enters the chute through the apertures via air jets in order to sequentially output the peas, one at a time, at the bottom of the chute and to dislodge "dust and grit" from the peas as they travel down the chute. Next, the singularly outputted peas are examined using optical light sensors and "discoloured" peas are "ejected by the ejector 28 so as to pass to a 'reject' chute 29a." Harris at 2, ll. 16-17.

However, nowhere does Harris describe "after the removing of a portion of the loose particles [from the batch], detecting in the batch the defective pellets and additional loose contaminants . . . and; after the detecting . . . the additional loose contaminants, removing . . . the additional loose contaminants from the batch." Rather, Harris discloses only one stage of loose contaminant removal: contaminants are only removed from the batch when the peas pass through the apertured chute prior to their optical inspection. At no subsequent time are additional loose contaminants detected and/or removed. Thus, Harris does not disclose, "after the removing of a portion of the

loose particles [from the batch], detecting in the batch the defective pellets and additional loose contaminants . . . and; after the detecting . . . the additional loose contaminants, removing . . . the additional loose contaminants from the batch.”

Accordingly, Applicant respectfully requests the Examiner reconsider and withdraw the rejection of amended independent claim 1 based on Harris under § 102. Moreover, claim 8 depends from independent claim 1 and, thus, contains all the elements and limitations thereof. As a result, dependent claim 8 is allowable at least due to its corresponding dependence from independent claim 1.

**Rejections Under 35 U.S.C. § 103(a)**

Applying 35 U.S.C. § 103(a), the Examiner rejected claims 2-5, 11, and 14 as being unpatentable over Harris in view of Ikeda; rejected claims 6 and 7 as being unpatentable over Harris in view of Ikeda and further in view of Oder; and rejected claim 9 as being unpatentable over Harris in view of Paulson. Applicant respectfully traverses these claim rejections for the reasons outlined in more detail below.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must disclose all of the claim limitations, or the claim rejection must explain why the differences between the prior art and the claim limitations would have been obvious to one of ordinary skill in the art. See M.P.E.P. § 2141.

A *prima facie* case of obviousness has not been established because, among other things, none of Harris, Ikeda, Oder, or Paulson, alone or in any combination, teaches or renders obvious every feature of Applicant's amended claims. Applicant has already established in the previous section that Harris fails to teach at least “after the removing of a portion of the loose particles [from the batch], detecting in the batch the

defective pellets and additional loose contaminants . . . and; after the detecting . . . the additional loose contaminants, removing . . . the additional loose contaminants from the batch.” The Examiner’s citation of Ikeda, Oder, and Paulson fails to cure the deficiencies of Harris. Specifically, no secondary reference cited by the Examiner discloses either “after the removing of a portion of the loose particles, . . . detecting in the batch the defective pellets and additional loose contaminants” or “after the detecting the defective pellets and the additional loose contaminants, removing the defective pellets and the additional loose contaminants from the batch,” as recited in amended independent claim 1.

Claims 2-7, 9, 11, and 14 depend from amended independent claim 1. Thus, claims 2-7, 9, 11, and 14 are patentably distinguishable from Harris, Ikeda, Oder, and Paulson at least due to their corresponding dependence from independent claim 1. Accordingly, Applicant respectfully requests the Examiner reconsider and withdraw the rejections of dependent claims 2-7, 9, 11, and 14 under 35 U.S.C. § 103(a).

#### **Claim Scope**

It is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant believes that he is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

**CONCLUSION**

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application, and the timely allowance of the pending claims.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicant's undersigned attorney at (404) 653-6435.

Applicant respectfully notes that the Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant respectfully declines to automatically subscribe to them.

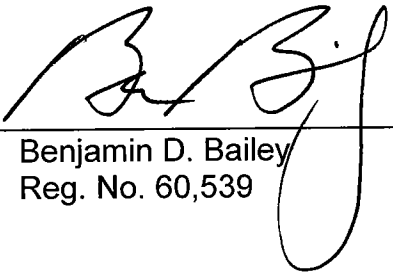
Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: February 24, 2010

By: \_\_\_\_\_

  
Benjamin D. Bailey  
Reg. No. 60,539